

SENATE BILL No. 260

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-2; IC 36-3-5.

Synopsis: Finance in a consolidated city. Provides that the controller of a consolidated city has all the powers and performs all the duties of the county auditor and the county treasurer under law except the duties of these officers as members of the board of county commissioners. Establishes the board of finance and management for the consolidated city consisting of the controller, the county auditor, and the county treasurer to advise the controller regarding the controller's duties. Repeals a statute relating to the residence of the county auditor of a county with a consolidated city, a statute relating to receipts of the county auditor and the county treasurer, and a statute relating to the personal liability of the auditor duplicated by another statute applicable to the controller. Provides for transfer of powers, property, and employees of the county auditor and the county treasurer to the city controller.

Effective: July 1, 2008.

Merritt

January 10, 2008, read first time and referred to Committee on Local Government and Elections.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 260

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-2-9.5-1.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. As used in this chapter,**
4 **"controller" refers to the controller appointed by the executive of**
5 **the consolidated city and the county under IC 36-3-5-2.**

6 SECTION 2. IC 36-2-9.5-3, AS ADDED BY P.L.227-2005,
7 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2008]: **Sec. 3. The ~~county auditor controller~~ shall keep an**
9 **office in a building provided at the county seat by the county executive.**
10 **The ~~auditor controller~~ shall keep the office open for business during**
11 **regular business hours on every day of the year except the following**
12 **days:**

13 (1) Sundays.

14 (2) Legal holidays. ~~and~~

15 (3) Days specified by the county executive according to the
16 custom and practice of the county.

17 SECTION 3. IC 36-2-9.5-4, AS ADDED BY P.L.227-2005,

2008

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SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. A legal action required to be taken in the ~~county auditor's~~ **controller's** office on a day when the ~~auditor's~~ **controller's** office is closed under section 3 of this chapter may be taken on the next day the office is open.

SECTION 4. IC 36-2-9.5-5, AS ADDED BY P.L.227-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The ~~county auditor~~ **controller** shall furnish standard forms for use in the transaction of business under this article and for use in the performance of services for which the ~~auditor~~ **controller** receives a specific fee.

SECTION 5. IC 36-2-9.5-6, AS ADDED BY P.L.227-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. The ~~county auditor~~ **controller** may administer the following:

- (1) An oath necessary in the performance of the ~~auditor's~~ **controller's** duties.
- (2) The oath of office to an officer who receives the officer's certificate of appointment or election from the ~~auditor~~ **controller**.
- (3) An oath relating to the duty of an officer who receives the officer's certificate of appointment or election from the ~~auditor~~ **controller**.
- (4) The oath of office to a member of the board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).

SECTION 6. IC 36-2-9.5-7, AS ADDED BY P.L.227-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The ~~county auditor~~ **controller** shall:

- (1) keep a separate account for each item of appropriation made by the legislative body of the consolidated city; and
- (2) in each warrant the ~~county auditor~~ **controller** draws on the county or city treasury, specifically indicate the item of appropriation the warrant is drawn against.

(b) The ~~county auditor~~ **controller** may not permit an item of appropriation to be:

- (1) overdrawn; or
- (2) drawn on for a purpose other than the specific purpose for which the appropriation was made.

(c) ~~A county auditor who~~ **If the controller** knowingly violates this section, **the controller** commits a Class A misdemeanor.

SECTION 7. IC 36-2-9.5-9, AS ADDED BY P.L.227-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2008]: Sec. 9. (a) This section does not apply to:

(1) funds received from the state or the federal government for:

(A) township assistance;

(B) unemployment relief; or

(C) old age pensions; or

(2) other funds available under:

(A) the federal Social Security Act; or

(B) another federal statute providing for civil and public works projects.

(b) Except for money that by statute is due and payable from the county or city treasury to:

(1) the state; or

(2) a township or municipality in the county;

money may be paid from the county or city treasury only upon a warrant drawn by the ~~county auditor~~ **controller**.

(c) A warrant may be drawn on the county or city treasury only if:

(1) the legislative body of the consolidated city made an appropriation of the money for the calendar year in which the warrant is drawn; and

(2) the appropriation is not exhausted.

(d) Notwithstanding subsection (c), an appropriation by the legislative body is not necessary to authorize the drawing of a warrant on and payment from the county or city treasury for **any of the following**:

(1) Money that:

(A) belongs to the state; and

(B) is required by statute to be paid into the state treasury.

(2) Money that belongs to a school fund, whether principal or interest.

(3) Money that:

(A) belongs to a township or municipality in the county; and

(B) is required by statute to be paid to the township or municipality.

(4) Money that:

(A) is due a person;

(B) is paid into the county or city treasury under an assessment on persons or property of the county in territory less than that of the whole county; and

(C) is paid for construction, maintenance, or purchase of a public improvement.

(5) Money that is due a person and is paid into the county treasury to redeem property from a tax sale or other forced sale.

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(6) Money that is due a person and is paid to the county or city under law as a tender or payment to the person.

(7) Taxes erroneously paid.

(8) Money paid to a cemetery board under IC 23-14-65-22.

(9) Money distributed under IC 23-14-70-3. ~~or~~

(10) Payments under a statute that expressly provides for payments from the county or city treasury without appropriation by the legislative body.

(e) ~~A county auditor who~~ **If the controller** knowingly violates this section, **the controller** commits a Class A misdemeanor.

SECTION 8. IC 36-2-9.5-10, AS ADDED BY P.L.227-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The ~~county auditor~~ **controller** shall examine and settle all accounts and demands that are:

(1) chargeable against the county or city; and

(2) not otherwise provided for by statute.

(b) The ~~county auditor~~ **controller** shall issue warrants on the county or city treasury for:

(1) sums of money settled and allowed by the ~~county auditor;~~ **controller;**

(2) sums of money settled and allowed by another official; or

(3) settlements and allowances fixed by statute;

and shall make the warrants payable to the person entitled to payment. The warrants shall be numbered progressively, and the controller shall record the number, date, amount, payee, and purpose of issue of each warrant at the time of issuance.

SECTION 9. IC 36-2-9.5-11, AS ADDED BY P.L.227-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. Whenever:

(1) a judgment or an order is issued by a court in a case in which the county was a party and was served with process for the payment of a claim;

(2) a certified copy of the judgment or order is filed with the ~~auditor;~~ **controller;** and

(3) the claim is allowed by the county executive;
the ~~auditor~~ **controller** shall issue ~~his~~ **a** warrant for the claim.

SECTION 10. IC 36-2-9.5-12, AS ADDED BY P.L.227-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) At the semiannual settlement under IC 6-1.1-27, the ~~auditor~~ **controller** shall issue calls for the redemption of outstanding county warrants if there is any money available in the county treasury for redemption of those warrants.

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(b) A warrant included in a call under this section ceases to bear interest upon the date of the call. The ~~county treasurer~~ **controller** shall redeem warrants included in the call when they are presented to the ~~county treasurer~~ **controller**.

(c) ~~An auditor who~~ **If the controller** violates this section, the **controller** is liable for the interest on all money used for redemption.

SECTION 11. IC 36-2-9.5-13, AS ADDED BY P.L.227-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The ~~county auditor~~ **controller** is responsible for the issuance of warrants for payments from county and city funds.

(b) The ~~county auditor~~ **controller** is responsible for:

- (1) accounting;
- (2) payroll, accounts payable, and accounts receivable;
- (3) revenue and tax distributions; and
- (4) maintenance of property records;

for all city and county departments, offices, and agencies.

SECTION 12. IC 36-2-9.5-14, AS ADDED BY P.L.227-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. The ~~county auditor~~ **controller** has all the powers and duties assigned to county auditors under IC 6-1.1, except for the powers and duties related to the fixing and reviewing of budgets, tax rates, and tax levies.

SECTION 13. IC 36-2-9.5-15, AS ADDED BY P.L.227-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. The ~~county auditor~~ **controller** does not have powers and duties concerning the fixing and reviewing of budgets, tax rates, and tax levies.

SECTION 14. IC 36-2-9.5-16, AS ADDED BY P.L.227-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. The ~~county auditor~~ **controller** has the powers and duties set forth in IC 36-2-9-18 and IC 36-2-9-20.

SECTION 15. IC 36-2-10-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.5. For purposes of this chapter, the controller of a consolidated city appointed under IC 36-3-5-2 has the powers and duties of a county treasurer described in this chapter.**

SECTION 16. IC 36-3-5-2.5, AS AMENDED BY P.L.227-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.5. ~~(a)~~ The controller appointed under section 2 of this chapter is:

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(1) the fiscal officer of:

(A) the consolidated city; and

(B) the county; and

(2) the director of the office of finance and management under section 2.7 of this chapter.

~~(b) The county treasurer serves ex officio as the treasurer of the consolidated city:~~

SECTION 17. IC 36-3-5-2.7, AS ADDED BY P.L.227-2005, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.7. (a) The office of finance and management is established and is responsible for:

(1) budgeting; ~~except as provided in subsection (c);~~

(2) financial reporting and audits;

(3) purchasing; and

(4) fixed assets;

for all city and county departments, offices, and agencies.

(b) The controller:

(1) serves as the director of; and

(2) may organize into divisions;

the office of finance and management.

~~(c) The office of finance and management is not responsible for the issuance of warrants for payments from county and city funds:~~

SECTION 18. IC 36-3-5-2.8, AS ADDED BY P.L.227-2005, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.8. (a) ~~Except as provided in subsections (b) and (c);~~ The controller:

(1) has all the powers; and

(2) performs all the duties;

of the county auditor under law.

(b) The controller:

(1) has all the powers; and

(2) performs all the duties;

of the county treasurer under law.

(c) The controller:

(1) does not have the powers; and

(2) may not perform the duties;

~~of the county auditor under IC 36-2-9.5 and IC 36-3-6, or as a member of the board of commissioners of the county under IC 36-3-3-10.~~

~~(c) Notwithstanding subsection (a) or any other law, the executive, with the approval of the legislative body, may allocate the duties of the county auditor, except the duties referred to in subsection (b), among:~~

~~(1) the controller;~~

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- (2) the county assessor;
- (3) the county auditor; or
- (4) other appropriate city or county officials.

SECTION 19. IC 36-3-5-2.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.9. (a) The board of finance and management is established.**

(b) The board consists of the following:

- (1) The controller.**
- (2) The county auditor.**
- (3) The county treasurer.**

(c) The controller is the chair of the board.

(d) The board shall advise the controller regarding the controller's duties.

SECTION 20. IC 36-3-5-11, AS ADDED BY P.L.227-2005, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. The controller shall:

- (1) immediately file the original of the ~~county treasurer's~~ monthly report under IC 36-2-10-16 with the records of the county board of finance;
- (2) present one (1) copy of the report to the legislative body of the consolidated city at its next regular meeting; and
- (3) immediately transmit one (1) copy of the report to the state board of accounts.

SECTION 21. IC 36-3-5-12, AS ADDED BY P.L.227-2005, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) Except as provided in subsection (b), if the controller is held personally liable for penalties and interest assessed by the Internal Revenue Service, ~~the county treasurer shall reimburse~~ the controller **is entitled to be reimbursed** in an amount equal to the penalties and interest.

(b) The ~~county treasurer may~~ **controller is not reimburse the controller entitled to reimbursement** under subsection (a) if the controller willfully or intentionally fails or refuses to file a return or make a required deposit on the date the return or deposit is due.

SECTION 22. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 36-2-9.5-2; IC 36-2-9.5-8; IC 36-2-9.5-17.

SECTION 23. [EFFECTIVE JULY 1, 2008] **(a) This SECTION applies only to a county containing a consolidated city.**

(b) As used in this SECTION, "auditor" refers to the county auditor of a county containing a consolidated city.

(c) As used in this SECTION, "controller" refers to the

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1 controller of the consolidated city.

2 (d) On July 1, 2008, the following apply:

3 (1) Except as provided in IC 36, as amended by this act, the
4 powers, duties, and functions of the auditor are transferred to
5 the controller.

6 (2) The property and records of the auditor are transferred to
7 the controller.

8 (3) All appropriations made to the auditor are transferred to
9 the controller.

10 (4) An individual who is an employee of the auditor becomes
11 an employee of the controller.

12 (e) This SECTION expires July 1, 2012.

13 SECTION 24. [EFFECTIVE JULY 1, 2008] (a) This SECTION
14 applies only to a county containing a consolidated city.

15 (b) As used in this SECTION, "controller" refers to the
16 controller of the consolidated city.

17 (c) As used in this SECTION, "treasurer" refers to the county
18 treasurer of a county containing a consolidated city.

19 (d) On July 1, 2008, the following apply:

20 (1) Except as provided in IC 36, as amended by this act, the
21 powers, duties, and functions of the treasurer are transferred
22 to the controller.

23 (2) The property and records of the treasurer are transferred
24 to the controller.

25 (3) All appropriations made to the treasurer are transferred
26 to the controller.

27 (4) An individual who is an employee of the treasurer becomes
28 an employee of the controller.

29 (e) This SECTION expires July 1, 2012.

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